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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/301,989	04/29/1999	HERZEL LAOR	4261500150	6316

27510 7590 09/16/2004
KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON, DC 20005

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/301,989

Applicant(s)

LAOR, HERZEL

Examiner

Harvey E. Behrend

Art Unit

3641

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 08 September 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☒ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☒ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☒ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

Continuation of 9. Other (including any explanation in support of the above items):

In further regard to item (4), the present claims are not directed to an apparatus.

As to item (5), each specific issue must recite the actual claims involved.

A proper statement would be: "Whether claims 59-67 are unpatentable under 35 USC 112 first paragraph as being based on a nonenabling disclosure".


Each stated issue should correspond to a separate ground of rejection.

Note that the 5/8/03 Office action sets forth five separate grounds of rejection in sections 3, 5, 6, 8 and 9.

In further regard to item (9), the brief presents new evidence, discusses said new evidence and relies on said new evidence (e.g. see the brief on pages 7+, Attachments A, B, C, D).

Entry of new evidence in an application on appeal is not a matter of right (MPEP 1207), and, is governed by 37 CFR 1.195. 37 CFR 1.195 states that such evidence will not be admitted without a showing of good and sufficient reasons why they were not earlier presented.

The brief on page 19 refers to attached copies of the three provisional applications to which priority is claimed. However, none of the attached papers have markings identifying them as any of the three provisional application serial numbers set forth on page 1 of applicants specification. It is noted that applicants specification has not incorporated by reference, said three provisional applications.


HARVEY E. BEHREND
PRIMARY EXAMINER